

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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BARBARA HANDSCHU, et al.,

Plaintiffs,

No. 71 Civ. 2203 (CSH)

-against-

POLICE DEPARTMENT OF THE CITY OF
NEW YORK, et al.,

MAY 26, 2016

Defendants.

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RULING ON FAIRNESS HEARING PROCEDURES

HAIGHT, Senior District Judge:

The Court is in the process of conducting a fairness hearing with respect to a proposed settlement of issues between the plaintiff Class and the City which arise out of NYPD conduct relating to the Muslim community. The hearing began on April 19, 2016 and was continued on April 20.

In a ruling dated April 27, 2016 [Doc. 452], the Court directed that the hearing be continued for an additional day: June 1, 2016. In that ruling, the Court recognized that "[t]he fully informed opinions of members of the Muslim community are important elements in a judicial evaluation of whether the proposed settlement is fair and reasonable for everyone living in or coming to the City, and for those whose duty it is to protect them." Slip. Op. [Doc. 452], at 6. The continued date and the extension of the hearing are intended to accomplish that purpose.

In order that the June 1 hearing be accomplished in an orderly fashion, the April 27 ruling and a subsequent text order on April 28 [Doc. 453] provided that individuals wishing to be heard at the hearing must file a notice to that effect with the Clerk not later than May 26, 2016, and send their comments "prior to and including May 26, 2016" to the Clerk or the e-mail address set up by Class counsel.

A number of responses have come in. It is apparent from some of them that requests are being made, and uncertainties are beginning to develop, with respect to when a particular speaker or speakers will be heard at the hearing. In that vein, the Court's Chambers has received an e-mail dated May 24, 2016 from Mr. Mulqueen, of the Mohammedi law firm, which requests "that Ms. Kimundi and our clients listed here be given the opportunity to speak in the morning," and adds: "We also think as lawyers we are hoping to be given that courtesy to testify on behalf of our clients who have related cases pending against the NYPD for illegal spying."

Two observations should be made about counsel's communication:

(A) I am greatly interested in what members of the Muslim community say about the settlement and accompanying amendments to the Handschu Guidelines. I am not in the least interested in the order in which they say it. No time will be wasted during the June 1 hearing in debating or deciding which of those wishing to be heard speak in the early morning, the late afternoon, or mid-day.¹ The Clerk and Chambers staff will compile a list of those individuals and law firms who signed up by or on May 26 to be heard. They will be called upon at the hearing *in alphabetical order* of their last names, subject to these exceptions: (1) A law firm, called upon in a

¹ My sentiment in this regard mirrors that of Lady Macbeth, who dismissed the banquet guests with some asperity: "Stand not upon the order of your going, / But go at once." Act III, sc. iv, l. 119.

place determined by the firm name, which represents several clients each signing up to be heard, may introduce those clients and they will be heard sequentially, as a group. (2) If a group of individuals, unrepresented by counsel, wish to be heard together, the group member first called upon from the alphabetical list may introduce his or her companions, and they will be heard sequentially, as a group.

(B) Counsel's e-mailed request that he be heard on behalf of clients "who have related cases pending against the NYPD for illegal spying" misses the mark if what counsel contemplates are submissions on the merits of those cases, which are unrelated to this fairness hearing. "The present inquiry is limited to whether the proposed amendments to the Modified Handschu Guidelines are fair and reasonable." April 27 Ruling, Slip. Op., at 7. It is not readily apparent what separate "illegal spying" cases, presumably pending before other judges in other courts, have to do with that core issue.

The June 1 continuation of the fairness hearing will take place in accordance with this Ruling and the Court's prior orders.

At the conclusion of the public comments, the attorneys for the Class and the City will be given an opportunity to be heard. This is fair, because the parties are the proponents of the settlement, and are entitled to respond to any criticisms.

It is SO ORDERED.

Dated: New Haven, Connecticut
May 26, 2016


CHARLES S. HAIGHT, JR.
Senior United States District Judge